

IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF MARYLAND

FILED

U.S. DISTRICT COURT

DISTRICT OF MARYLAND

DAVID KISSI, : 2002 FEB -8 P 3:17

Plaintiff : CLERK'S OFFICE
AT BALTIMORE

v. : Civil Action No. L-02-343 DEPUTY

RICHARD M. KREMEN :

Defendant :

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ORDER

On December 17, 2001, Plaintiff, David Kissi filed a Complaint for Negligence and Fraud in the United States District Court for the District of Columbia. Pursuant to defendant's motion to dismiss or transfer, the matter was transferred to this court on February 1, 2002 for adjudication.

Plaintiff is President of DK&R Company. DK&R Company filed a petition under chapter 11 of the Bankruptcy Code in the United States Bankruptcy Court for the District of Maryland. Defendant is the trustee appointed by the Bankruptcy Court to manage the assets of debtor DK&R Company. Plaintiff alleges that defendant negligently administered the bankruptcy estate. He seeks damages.

A debtor must obtain leave of the bankruptcy court before initiating an action in district court when that action is against the trustee or other bankruptcy-court-appointed officer, for acts done in the actor's official capacity. *Gordon v. Nick*, No. 96-1858, 162 F.3d 1155 (4th Cir. 1998)(unpublished). Mr. Kissi has failed to obtain leave to sue the trustee from the Bankruptcy Court.

Because the conduct of which plaintiff complains arises out of the trustee's activities in administering the bankruptcy estate, this matter clearly arises under the Bankruptcy Code and relates

to DK&R Company's pending bankruptcy. Local Rule 402 of this Court provides that any case arising under the Bankruptcy Code or related to proceedings under the Bankruptcy Code "shall be deemed to be referred to the Bankruptcy Judges of this District."

Accordingly, it is, this 7th day of February, 2002, hereby **ORDERED** that:

1. The Clerk is directed to send this case, including a copy of this Order, to the Clerk of the Bankruptcy Court for consideration in United States Bankruptcy Court Case No. 00-61147SD;
2. The Clerk is directed to mail a copy of this Order to the Plaintiff and counsel of record; and
3. The Clerk is directed to close this case.



Benson E. Legg
United States District Judge

